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The Constitution of New
Zealand

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THE CONSTITUTION OF NEW ZEALAND.

DESPATCH FROM SIR GEORGE GREY
TO THE
RIGHT HON. EARL GREY.

Auckland, New Zealand:
H. BRETT, GENERAL PRINTER, SHORTLAND & FORT STREETS.

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P R E F A C E .

THE subject of colonial federation having again come to the front, it has been thought desirable to republish a despatch written more than forty years ago upon this question.

The result of that despatch was the enactment by the British Parliament of "An Act to grant a Representative Constitution to the Colony of New Zealand." This was the most liberal constitution which had at that time been conferred upon any British Colony, and formed the basis of the constitution given to Canada.

The Colonial Minister, Sir John Packington, in transmitting to the Governor the New Zealand Constitution Act, July 16th, 1852, informed him as follows :—"They (Her Majesty's Government) are, in fact, well assured that the measure itself, now reduced into a law, owes its shape in great degree to your valuable suggestions. It has been thought advisable that the Provincial Councils should consist of a single Chamber, consisting wholly of elected members.

"Her Majesty's Government determined on submitting to Parliament another suggestion, originated by yourself, although not actually reduced by you into practice, that of rendering the Superintendents of Provinces elective. They are aware that this is an innovation on ordinary usage. . . . But they have not, on this account, thought it necessary to withhold what they have every reason to believe will be regarded by the colonists as a valuable concession, whilst they feel a confident hope that the electors will form the best judgment as to the persons qualified to serve the public interest in offices for which a knowledge of the wants and circumstances of each locality is peculiarly necessary.

“Another point in which you will observe that your own suggestions have been adopted is the leaving the power of allowance and disallowance of Provincial Ordinances in the Government, instead of in the Crown.”

Notwithstanding these concessions on the part of the Home Government, Sir J. Packington refused to allow the Legislative Council, or Upper House, to consist of elected members, as had been recommended. The Imperial Parliament therefore decided that the members of the Council should be nominated by the Crown for life. This change destroyed the balance of the proposed New Zealand Constitution.

The objects specially contemplated in drafting that constitution had been to do away with various restrictions upon freedom of election and legislation, which at that date prevailed. To do away with the necessity for any special rank, or money, or property qualifications, to enable a person to enter a legislative body. To secure what was then regarded as a low rate of franchise. To establish Provinces with the most ample powers of real local self-government. To enable the people of such Provinces to elect their own Lieut.-Governors (Superintendents). To show in practice that at least in populations which were not numerous one Chamber was sufficient to insure good legislation. To enable the Provinces to alter their form of government as they might desire, without reference to any outside authority, and generally to prevent such external authority from interfering with the internal legislation of New Zealand. To secure the equitable application of the revenues of the entire colony throughout its whole extent. To provide for the payment of members.

It was thought necessary to place one restriction on the powers of the Provinces. When the United States federated, each State claimed to be a Sovereign State, independent in every respect of any other authority. The States then agreed to divest themselves of the power of legislating on certain subjects of common interest, and to vest the power of legislating on these in the General Congress. The legislative powers of Congress

were thus shut up within well-defined boundaries, which could only be extended by the unanimous consent of all the States. Hence, in the event of any question of paramount interest arising—such as slavery—if the majority of the States and people desired a general law, modifying or abolishing such an institution, the minority might refuse the Congress the power of making such a law. It was difficult to see how such an emergency could be met without recourse to arms. It appeared, therefore, to be prudent to make some provision for meeting such a possible contingency. These views were acquiesced in by the British Government and Parliament. The General Assembly of New Zealand, which was composed of the representative of the Queen, the Legislative Council, and House of Representatives, was therefore regarded as the sovereign power, which had devolved certain of its powers of legislation on the Superintendents and Legislative Councils of Provinces, on the condition that it could resume any of these powers if it deemed it necessary for the common good to do so.

By clause 19 of the New Zealand Constitution Act, it was therefore enacted that it should not be lawful for the Superintendent and Provincial Council to make or ordain any law or ordinance relating to certain named special purposes of general interest, which concerned the welfare of the entire colony, and in the fifty-third clause of the same Act a further provision to the following effect was enacted:—"The laws so to be made by the General Assembly shall control and supersede any laws or ordinances in anywise repugnant thereto, which may have been made or ordained prior thereto by any Provincial Council, and any law or ordinance made or ordained by any Provincial Council in pursuance of the authority herein conferred upon it, and on any subject whereon, under such authority as aforesaid, it is entitled to legislate, shall so far as the same is repugnant to, or inconsistent with any Act of the General Assembly, be null and void."

Extensive as were the then unusual powers given by their constitution to the Provinces of New

Zealand, and to its people, it is universally admitted that they used them well and wisely ; that they so governed themselves that they prospered in no ordinary degree, and were truly loyal and contented, whilst in the Provincial Councils were educated that class of statesmen who have ruled New Zealand almost to the present time.

DESPATCH FROM SIR GEORGE GREY TO
THE RIGHT HON. EARL GREY.

No. 121—LEGISLATIVE.

Government House, Wellington,
August 30, 1851.

MY LORD,—Adverting to my despatch, No. 123, of the 24th October, 1850, in which I transmitted, for your Lordship's information, the draft of a Bill for constitution of Provincial Councils which I intended to introduce into the General Legislative Council of these islands, I have now the honour to enclose that Ordinance in the form in which it passed the Council and received my assent.*

2. In thus transmitting it for the purpose of being submitted for Her Majesty's approval or disallowance, I think it right to make, for your Lordship's information, the following report upon the enclosed measure.

3. In doing so it will however be necessary for me to advert to what took place in 1846, when Parliament passed an Act to make further provision for the government of the New Zealand islands, in conformity with the provisions of which a Charter was issued, and a Constitution conferred upon these islands, regarding the general provisions or details of which, it was, from want of time, not found practicable to afford me any opportunity of making a report or offering any opinion.

4. When that Constitution and the Instructions which accompanied it arrived in the colony, very serious disturbances prevailed; and the native population having for some time previously been in a state of great excitement and rebellion, I thought it would be imprudent to attempt immediately to introduce certain provisions in the Charter, Constitution, and Instructions, which had been sent out to me, and I reported to your Lordship accordingly. With a promptitude and generous confidence in my prudence and judgment for

* Provincial Councils Ordinance, Sess. XI., No. 6.

which I shall always feel grateful, your Lordship acceded to my views ; and upon your recommendation Parliament passed an Act in 1848, suspending for five years the constitution which had been bestowed upon these islands, and further authorizing me, during those five years, to constitute in New Zealand Provincial Councils, to be composed either wholly of elected, or partly of appointed and partly of elected members, as might be thought most desirable.

5. The suspending Act of Parliament not wholly repealing, or even altering, the constitution which, under your Lordship's directions, had been conferred upon these islands, but only deferring its introduction for five years, I felt that it was my duty to your Lordship, who had acted with such generosity and confidence towards myself, to be careful to exercise the powers conferred upon me by Parliament with regard to the creation of Provincial Councils in such a manner as should neither defeat nor even embarrass, but rather aid in the introduction (at the termination of the five years for which it was suspended) of that form of constitution which that officer of Her Majesty's Government, under whose direct orders I was serving, and upon whom the responsibility of advising the Queen upon such subjects rested, had deemed most fitted for the present condition of these islands, and which constitution was, moreover, in very many of its main features, one well adapted to promote the prosperity of New Zealand.

6. I also felt that I had a peculiar and very delicate duty to perform towards Parliament, because the powers with which I was intrusted by the Act 11 Vict., cap. 5., of constituting Provincial Councils, were very great powers, such as I believe had before that time rarely, if ever, been entrusted to a Colonial Governor ; and Parliament, at the same time that it had intrusted me with these ample and unusual powers of legislation on such important subjects, was itself legislating upon the same subjects, with reference to colonies in the immediate vicinity of these islands. I judged therefore that it was my duty, as an officer of a great Empire, intrusted with high powers, not to attempt rashly to

set up my judgment against the opinions of the majority of the great council of that Empire, and by legislating in a manner different from that which they thought proper to pursue in immediately neighbouring colonies, create, perhaps, great embarrassment and much discontent. But I thought it rather my duty, in any Ordinances which I might pass for the creation of local legislatures, to act, in as far as the circumstances of this country would permit, in perfect accord and harmony with the system which Parliament might pursue; and then, in reference to any other changes I might deem necessary, to make recommendations on the subject to your Lordship, in order that they might be submitted for the consideration of Parliament.

7. In all proceedings, therefore, which I have taken in reference to the changes I have introduced into the constitution of this country, I have held the two foregoing principles in view; although I have still so framed my measures as to make gradual advances towards what, in my own opinion, would be the most perfect form of constitution which could be bestowed upon New Zealand.

8. The recent despatches I have received from your Lordship having convinced me that your desire to promote the welfare of the inhabitants of these islands and the interests of the Empire is so strong, that you are ready instantly to forego the form of constitution proposed by your Lordship if a better one can be presented for your consideration, and as you have invited the full expression of my views upon the subject, I now, although with a sense of great diffidence in opposing my own views to those of your Lordship and Parliament, proceed, in transmitting the enclosed Ordinance, to make a general report upon the form of institutions which a long consideration of the subject has made me deem best adapted to the circumstances of these islands, and to show how I hoped that the Ordinance now transmitted might ultimately form a component, and perhaps the most important part of such institutions.

9. In making such a report as I have above indicated, I shall assume, in conformity with the terms of your Lordship's despatch, No. 23, of the 19th

February, 1851, that (although they have not yet reached me) Instructions have been issued to me by her Majesty, leaving me unfettered discretion as to the number of provinces into which New Zealand should be divided; and I shall further report fully the mode in which I intend temporarily to give effect to those instructions and to the enclosed Ordinance, so that my proceedings may, in as slight a degree as possible, interfere with any arrangements which Her Majesty Government may see fit to make regarding the form of constitution for New Zealand, whether they may either adopt in whole or in part, or entirely reject, the plan of institutions embodied in the enclosed Ordinance and this report.

10. In order that the present state of these islands, and the condition of the several races inhabiting them, for whom representative institutions are to be provided, may be clearly understood, and that the subject may stand in a complete form, it will be necessary for me to incorporate into the present despatch, with such modifications as carry the subject up to the present time, several of the first paragraphs of a despatch, number 93, which I addressed to your lordship upon the 9th of July, 1849.

11. The group of colonies comprised in the New Zealand islands are composed at present of what may be termed nine principal European settlements, besides smaller dependencies of these. The largest of these settlements contains about nine thousand (9,000) European inhabitants; and their total European population may be estimated at about twenty-six thousand souls. These settlements are scattered over a distance of about nine hundred miles of latitude; they are separated from each other by wide intervals; and communication, even for persons on horseback, exists only between three of them. Their inhabitants are chiefly British subjects, but there are amongst them many Americans, French, and Germans. The majority of them have never been trained to the use of arms. The settlers, both in the main colonies and the subordinate dependencies, have occupied the country in so scattered and irregular a manner, that it would be found

impossible to afford them efficient protection. They are generally without arms, and would probably be deprived of them by the aboriginal population if they possessed them at any remote stations.

12. The wide intervals between these European colonies are occupied by a native race, estimated to consist of one hundred and twenty thousand (120,000) souls, a very large proportion of whom are males capable of bearing arms. These natives are generally armed with rifles or double-barrelled guns; they are skilled in the use of their weapons, and take great care of them; they are addicted to war, have repeatedly in encounters with our troops been reported by our own officers to be equal to any European troops, and are such good tacticians that we have never yet succeeded in bringing them to a decisive encounter, they having always availed themselves of the advantages afforded by their wilds and fastnesses. Their armed bodies move without any baggage, and are attended by the women, who carry potatoes on their backs for the warriors, or subsist them by digging fern-root, so that they are wholly independent of supplies, and can move and subsist their forces in countries where our troops cannot live.

13. I should here correct a popular fallacy, which, if ever acted upon, might prove ruinous to these settlements. It has been customary to compare them to the early American colonies, and the natives of this country to the North American Indians. There appears to be no analogy between the irregular manner in which these islands were partially peopled by whalers and persons from all portions of the globe, and the pilgrim fathers who founded the early settlements in America; and I have been assured by many excellent and experienced officers, well acquainted with America and this country, that there is, in a military point of view, no analogy at all between the natives of the two countries; the Maories, both in weapons and knowledge of the art of war, a skill in planning, and perseverance in carrying out, the operations of a lengthened campaign, being infinitely superior to the American Indians. In fact there can be no doubt that they are, for warfare in

this country, even better equipped than our own troops.

14. These natives, form the positions which they occupy between all the settlements, can choose their own points of attack, and might even so mislead the most wary government as to their intended operations, as to render it extremely difficult to tell at what point they intended to strike a blow. They can move their forces with rapidity and secrecy from one point of the country to another; whilst, from the general absence of roads, the impassable nature of the country, and the utter want of supplies, it is impossible (except in the case of some of the settlements where good roads have been constructed) to move a European force more than a few miles into the interior from any settlement.

15. The natives, moreover, present no point at which they can be attacked, or against which operations can be carried on. Finding now that we can readily destroy their pas or fortifications, they no longer construct them, but live in scattered villages, round which they have their cultivations, and these they can abandon without difficulty or serious loss, being readily received and fed by any friendly tribe to whom they may repair. They thus present no vulnerable point. Amongst them are large numbers of lawless spirits, who are too ready, for the sake of excitement and the hope of plunder, to follow any predatory chief. To assist in anything which might be regarded as a national war, there can be little doubt that almost every village would pour forth its chiefs and its population.

16. With these characteristics of courage and warlike vagrancy, the Maories present, however, other remarkable traits of character. Nearly the whole nation has now been converted to Christianity. They are fond of agriculture, take great pleasure in cattle and horses; like the sea, and form good sailors; have now many coasting vessels of their own manned with Maori crews; are attached to Europeans, and admire their customs and manners; are extremely ambitious of rising in civilization and of becoming skilled in European arts; they are apt at learning; in many respects extremely

conscientious and observant of their word; are ambitious of honours, and are probably the most covetous race in the world. They are also agreeable in manners, and attachments of a lasting character readily and frequently spring up between them and the Europeans. Many of them have also now, from their property, a large stake in the welfare of the country; one chief has, besides valuable property of various kinds, upwards of five hundred pounds (£500) invested in Government securities; several others have also sums of from two to four hundred pounds (200 to £400) invested in the same securities.

17. A consideration of these circumstances will, I think, lead to the conclusion that any attempt to form, in those portions of these islands which are densely peopled by the natives, an ordinary European settlement, the inhabitants of which produced all they required, and were wholly independent of the native race, must end in failure. The natives in the vicinity of such a settlement, finding themselves excluded from all community of prosperity with the inhabitants, would soon form lawless bands of borderers, who, if they did not speedily sweep away the settlement, would yet, by their constant incursions, so harass and impoverish its inhabitants that they would certainly soon withdraw to the neighbouring Australian settlements, where they could lead a life of peace and freedom from such incursions. Upon the other hand, however, it would appear that a race such as has been described could be easily incorporated into any British settlement, with mutual advantage to both races; the natives supplying agricultural produce, poultry, pigs, and a constant supply of labour (although yet for the most part rude and unskilled); whilst, upon the other hand, the Europeans would supply the various manufactured goods required by the natives, and provide for the manifold wants created by their increasing civilisation. Such a class of settlements might easily grow into prosperous communities, into which the natives, with characters softened by Christianity, civilization, and a taste for previously unknown luxuries, would readily be absorbed. This process of the incorpora-

tion of the native population into the European settlements, has, accordingly, for the last few years, been taking place with a rapidity unexampled in history. Unless some sudden and unforeseen cause of interruption should occur, it will still proceed, and a very few years of continued peace and prosperity would suffice for the entire fusion of the two races into one nation.

18. These observations on the present relative positions of the European and native populations of these islands apply principally to the northern island of New Zealand; the European population in the Middle Island already probably considerably outnumbering the natives who inhabit that island.

19. In considering the geographical and political positions, in relation to each other, of the several settlements occupying the Northern Island, it may be stated that the centre of that island is occupied by a mountain range, the highest point of which is probably about ten thousand (10,000) feet above the level of the sea, and is covered with perpetual snow, having as one of its peaks a volcano of boiling water. The snows which cover this range form perpetual springs from which rivers of cold and pure water are thrown off in all directions to the coast; whilst the volcano in the same range constitutes a fountain of perpetual supply to two nearly continuous chains of boiling springs, which run from the mountain range to the north-eastern coast of the island.

20. The central mountain range throws off also spurs or ridges of very difficult mountainous country in various directions to the coast, the valleys between which ridges, generally mere gorges at the hills, become fertile and extensive plains near the coast, and form the channels of the Thames, the Waikato, the Mokau, the Whanganui, the Rangitikei, and other minor streams. These subsidiary mountain ridges or spurs thrown off from the main range are, for the most part, where roads have not been constructed across them, impassable even for horses; so that no overland communication, except for foot passengers, can be considered as yet existing between the several principal settlements.

21. In the plains in the Northern Island through

which the above named rivers flow, and at points where the coast line indents these plains with roadsteads or harbours, are situated the principal European settlements ; whilst the Maori population inhabit the central mountain range, or are distributed in the small villages scattered along the fertile banks of the rivers from their sources to their junction with the sea, or occupy in small communities the coast line which intervenes between the several European settlements. Each European settlement has also now attracted to its vicinity, or contains mixed up with its white inhabitants, a considerable Maori population. In these cases both races already form one harmonious community connected together by commercial and agricultural pursuits ; they profess the same faith ; resort to the same courts of justice ; join in the same public sports ; stand mutually and indifferently to each other in the relation of landlord and tenant, and are insensibly forming one people. Each day also, as the European settlements spread along the coast, or towards the interior, a large number of Maories are weaned from barbarism, and are adopted into a civilized community. The danger of any general outbreak on their part, therefore, daily decreases ; and there seems no reason why populations which so readily assimilate may not be gradually and by prudent measures brought under one form of constitutional government, which might equally foster and promote the really common interests of both races, if those of the ruder race be first taught to resort for the settlement of their disputes to courts of judicature expressly adapted to their present state, and be by degrees trained to the exercise of simple municipal duties.

22. The Middle Island may be said to be traversed by a mountain range, which, commencing at its north-east extremity, where it almost abuts on the coast, runs in nearly an east and west line across the country to the west coast, along which coast it continues uninterruptedly, but increasing in elevation till it reaches the south west corner of the island. To the westward this range falls abruptly into the sea, leaving, generally, but a narrow strip of fertile land between its base and the sea coast ;

whilst, although it falls in the same abrupt manner on its eastern side, fertile plains of immense extent intervene on that side between the base of the mountain range and the sea.

23. Two considerable settlements are already established on these plains on the east coast, and a third very considerable settlement (Nelson) is established on the plains in the northern part of the island, which intervene between the mountain range and the sea. The mountain range in the Middle Island is also throughout a great portion of its extent covered with perpetual snow, and gives rise to numerous rivers of considerable width, subject to sudden floods, and generally of very rapid course.

24. In the Middle, as in the Northern Island, no overland communication, except for foot passengers, as yet exists between the different settlements. For in that island, where mountain ranges do not interpose an almost insurmountable barrier between the settlements, the wide, rapid, and dangerous rivers offer at present a no less serious difficulty in the way of any continuous intercourse between the various towns. The inconsiderable native population in the Middle Island may be said to be principally located in the vicinity of the several European settlements.

25. In the two islands there exist six principal towns, five of which are situated on good harbours, and each of these form emporiums for considerable colonies in their neighbourhood.

26. These five colonies were settled at different times, each upon a totally distinct plan of colonization, and by persons who proceeded direct to their respective colony, either from Great Britain or from the neighbouring Australian colonies, and who rarely passed through any other New Zealand settlement previously to reaching the colony which they now inhabit; and who, except in a few instances, rarely travel from their own colony to any neighbouring settlement.

27. Each of these chief towns carries on an independent trade with Great Britain and with the neighbouring Australian colonies, and hardly any interchange of commerce takes place between them,

since they at present all produce nearly the same commodities, and require the same kind of supplies, which they naturally seek at the cheapest mart; whilst the cost of transport from a port in the Australian colonies, but in a trifling degree, if at all, exceeds the corresponding charges from a port in New Zealand. There is indeed already a considerable and increasing coasting trade in New Zealand, which in some parts is chiefly carried on in vessels owned and manned by Maories; but it consists rather of a trade between various small native and European settlements, and that one of the principal European towns from which they derive their supplies, and with which they are immediately connected, than of any trade between the principal colonies themselves.

28. I think it must be clear that between colonies so constituted, little of what may be termed community of interest can be said to exist. There is no general capital or mart to which all merchants and persons having extensive business at all times resort. There is no one central town for all the islands in which the courts of law hold their sittings. Individuals who inhabit one colony, rarely have property or agents in another. Personal acquaintance or intercourse between the inhabitants of the various settlements can be scarcely said to exist.

29. Any attempt therefore to form a General Legislature for such a group of colonies, which should at present annually, or even frequently assemble, and which should be so composed as fairly to represent the various interests of all parts of this country, must, I think, fail; because there are as yet no persons in these islands who have the means or leisure, to enable them to abandon their own affairs each year, for the purpose of resorting to another colony, there to discharge their senatorial duties. If even a payment was made to such persons to remunerate them for their expenses whilst travelling and absent from home, they still could not afford to neglect their own affairs during so long an interval of time.

30. I think, therefore, it may be assumed, that a General Legislature which should be required fre-

quently to assemble, should form no part of any plan of institutions to be conferred upon such a group of colonies; although I shall show presently that for some purposes a General Legislature is even now necessary, and will hereafter be still more necessary, if these islands are to form, as is greatly to be desired, one large and prosperous country.

31. The same causes which appear to me to render it impossible at present to assemble frequently a General Legislature, which should at all fairly represent the interests of all the settlements, seem also, in as far as I can judge, to be fatal to the adoption in these islands of the municipal system alone, without some other peculiar institutions being adopted in aid of that system, which would be adapted to the unusual state of circumstances which prevail in this country.

32. Because such municipalities can only exist concurrently with a Legislature which frequently meets. For there is nothing connected with the offices of mayor or alderman of the corporation of a small colonial town, which would induce the ablest and leading men of the country to strive to obtain such offices. Under a system of extended municipalities with enlarged powers, such corporations would, however, compose in fact not only the legislative body, but also the executive government of large districts of country. It would therefore certainly be a great oversight, and an unwise policy, thus by indirect means to exclude from the higher legislative and executive offices, the fittest and ablest men that the country affords. The frequent sittings of a municipal body would also, in a country where every man is engaged in some active operation, prevent all those who did not live in the town or in its immediate neighbourhood, from becoming members of such municipal bodies; hence a large portion of the population and of the country would, under such a system, be virtually unrepresented, and their requirements unknown. The careless manner in which municipal bodies enact their laws render them also little qualified for the offices of higher legislation for extensive districts of country; and the frequency and permanency of their sittings

would in a great degree remove them from that watchful control of public opinion, which is always eagerly concentrated on the proceedings of a legislative body which has only one annual sitting, extended over no very great length of time. Moreover, corporate bodies, exercising the usual and rather extended municipal powers, are already required for several towns in New Zealand. I think, therefore, that the municipal system should be here carefully preserved, and that it should be so preserved in its integrity for municipal purposes, and that its vitality and very form of being should not be destroyed, by producing it in a shape which, possessing no distinctive character, no clearly ascertained line of duties, would command little or no respect, would have no precedents to guide it, would, I am sure, in practice prove entirely unsatisfactory and almost useless, and would thus, after a short existence, during which great discontent would be generated in the country, and its prosperity and progress be much retarded, leave to Great Britain the task of again framing a constitution for this country, which task would then be found a far more difficult one than it would be at present.

33. Having thus discussed these preliminary questions, I now proceed to report upon the form of Constitution which I think would meet all the difficulties presented by the anomalous circumstances of this country; and in doing this I shall endeavour to trace them upwards from the municipal institutions of the lowest kind which exist here, to the General Legislature; because I believe that the whole working of the proposed form of future institutions will depend upon a proper balance of different interests being preserved; indeed, the main feature of the plan now submitted for your Lordship's consideration is, that it is an attempt to adjust the English constitution, and its balance of powers, to the peculiar circumstances of this country.

Municipal Institutions.

34. These I propose should be of three kinds,

two of which are already in existence, and appear likely to confer great benefit on these islands.

First—The division of the country into hundreds, represented by their wardens, the mode of election, powers, and duties of which officers, as also the nature and extent of the funds placed at their disposal, are set forth in the Ordinance named in the margin,* and in the Royal Instructions dated 12th of August, 1850. This system of small municipalities has already been for a long time in full and beneficial operation, and the system has received the Royal sanction. It may be said to be one which precedes the system of large municipal boroughs, first occupying with simple institutions a country thinly inhabited by Europeans and Maories engaged in agricultural pursuits, and which are of such a nature that they form a fitting introduction to a higher class of municipal institutions.

Secondly—The division of the thinly inhabited portions of the country, at present almost exclusively occupied under lease from the Crown by persons employed in rearing and tending sheep and cattle, into large districts to be called “pastoral districts,” represented by pastoral wardens, the mode of election, powers, and duties of which officers are detailed in the Ordinance noted in the margin.† No municipality of this kind has yet been created, the law which enables me do so having only recently passed, nor has it yet received the Royal sanction. But the declaration of my proposing to create municipalities of this kind has been received with general satisfaction, and great benefits are expected to flow from the adoption of this system.

Thirdly—The constitution of municipalities, of the nature of those existing in Great Britain, but with more extended powers. These would generally embrace several hundreds of the first class, which would, however, still preserve their own privileges as hundreds, and elect their own wardens; although for a higher and more ex-

* Crown Lands Ordinance, Sess. X, No. 1.

† Crown Lands Amendment and Extension Ordinance, Sess. XI.⁹
No. 10.

tended class of municipal duties they would be adopted, as wards, into the larger corporation. The necessary powers for creating these bodies are already conferred upon the Governor-in-Chief by the Charter and Fifth chapter of the Instructions of 1846. Full details relating to the constitution, duties to be confided to, and powers of these bodies, are set forth in the Auckland Charter, creating such a municipality, and my despatch to the Lieutenant-Governor which accompanied it, which I transmitted to your Lordship in my despatch named in the margin. Several municipalities of this nature, in addition to the borough of Auckland, will require to be almost immediately constituted.

35. From the preceding statement of the nature of the municipal institutions which I consider necessary for New Zealand, your Lordship will, I think, see that I rely greatly upon municipal institutions as a very important element in the constitution of this country; and it will be found by a reference to my despatches of the numbers and dates mentioned in the margin, that from one third of the gross proceeds realised from the sale of land in their respective districts being placed under the control of these municipal bodies, I anticipated that a more popular and better administration of the waste lands of the Crown would result than prevails in any other colony.

36. Finally, I would make two remarks upon this subject.

Firstly.—I believe the system of municipal institutions which I have detailed is very popular, and will gradually become more so, and that the inhabitants of New Zealand generally would very unwillingly see them swept away to give place to any other system that has as yet been proposed.

Secondly.—That all the necessary powers for the creation and regulation of such municipalities rest upon legislative enactments and instructions already in existence; and that, consequently, nothing has either to be done, nor does anything require to be swept away, in order to secure to New Zealand the advantage of such corporate bodies.

In any constitution, therefore, which may be given to these islands, all that is necessary is to preserve, exactly in its present form, the fifth chapter of the Royal Instructions of 1846, "on Municipal Corporations."

Provincial Councils.

37. Next ascending to the legislative body, which it is proposed should immediately succeed municipalities.

38. I think that power should be given to the Governor-in-Chief to divide the New Zealand islands, when he thought it expedient to do so, into the five provinces named in the margin,* and that power should also be given to the Governor-in-Chief, with the advice and consent of the General Legislature of these islands, to alter the boundaries of such provinces, and to create others if necessary.

39. One of the provinces I have named would probably immediately contain three boroughs or municipalities; and they might all, from their nature, contain either several municipalities or none. If the returns of the native population are at all correct, the proposed province of New Ulster would now contain,

Europeans. . . 10,000	} nearly 80,000 souls.
Natives. . . . 70,000	

that of Wellington,

Europeans. . . 8,000	} 48,000 souls, exclusive of the
Natives. . . . 40,000	

military.

The other provinces would at present contain comparatively small populations. But a rapid increase in the European population of the whole of New Zealand is taking place.

40. To each province that might be created, I propose that a Legislative Council should be given, to be called the Provincial Legislative Council. I propose that for the present those Councils should be constituted in the manner provided in the enclosed Ordinance, and that they should possess all the powers which that law confers upon them, although I think that certain alterations in their constitution and powers should shortly be made in the mode which I will presently explain.

* Auckland or New Ulster, Wellington, Nelson, Canterbury, Otago.

41. I, perhaps, ought here to add that, in conformity with the terms of the Charter and Royal Instructions, it is only provided in the Provincial Councils Ordinance, now transmitted to your Lordship, that those Councils shall not legislate upon the several subjects named in the Charter and Instructions, and in a subsequent despatch addressed to me by your Lordship. If this question was left entirely to my discretion I should, with a view of securing uniformity in the administration of justice throughout the entire islands, prohibit the Provincial Councils, in addition to the other subjects named in the enclosed Ordinance, from making any laws For the establishment of any courts of judicature, criminal or civil, or for the alteration of the constitution of, or course of practice in, any such courts.

And further, in order that the same punishment might attach to indictable offences throughout the whole of New Zealand, instead of enacting, as directed by your Lordship, and as has been done in the thirteenth section of the twenty-ninth clause, that it shall not be competent for the Provincial Council to make any law For inflicting the punishment of death or transportation for any crime or offence, I should wish to see it enacted that such Councils should not make any law For altering or affecting the criminal law of the colony, so far as relates to any felony, treason, or misdemeanour prosecuted by indictment or information.

42. If such a Legislative Council as I suggest is given to each province, and the members of it receive the payment proposed for their attendance, then annual sessions might be held at the capital of the province without inconvenience, and each of these Councils would possess the most ample, in fact all requisite powers of legislation for the regulation of all questions that could arise within a province; and as the whole of the local revenues (except that portion which is required for general purposes, including the civil list,) is placed at the disposal of such Legislative bodies, there can be no doubt that the revenues of the country would be fairly and equitably applied throughout its whole extent.

43. Legislative Councils of this nature appear to me to present great advantages in a country circumstanced as New Zealand is. I will name a few of these advantages :

Firstly.—They secure, in the only manner which I believe to be practicable in New Zealand, real local self-government throughout every part of these islands.

Secondly.—If any questions of an exciting kind should arise between the European and native populations, the majority of the provinces, from the small number of natives in them, would have no great personal interest in such questions. Their inhabitants and legislatures could therefore form a dispassionate and unprejudiced opinion on such questions. Hence the general Government in pursuing such a line of policy towards the natives as justice and humanity might demand, could be certain that it would not be compelled to yield to momentary passions, prejudice, or self-interest ; because there would be a large number of persons, and several regularly constituted legislative bodies, on whom it could rely for support. On the other hand, if the General Government, weakly yielding to public clamour and prejudice, was about to give effect to the momentary merely local popular will of any province by committing some act of injustice towards the natives, regularly constituted legislative bodies would be in existence to give expression to their opinion, and thus check its action.

Thirdly. — The constitution of such legislative bodies, which possessed such extensive powers of local legislation, would, for at least several years to come, render the frequent assembling of the General Legislature entirely unnecessary.

Fourthly.—The powers of legislation of such Councils being merely of a local nature, and being restricted in reference to general matters, a great difficulty is avoided ; inasmuch as Ordinances passed by them need not be referred home for the Royal assent, but might, as is provided in the enclosed Ordinance, be either allowed or disallowed by the Governor-in-Chief. The question

therefore which relates to the transmission of all colonial laws for the allowance or disallowance of the Crown would be much narrowed ; indeed it could only arise in reference to laws passed by the General Legislature ; and as that body would so seldom meet, and the subjects reserved for its legislation are so few, the probability is that it might never be thought of in as far as relates to New Zealand.

Fifthly.—Such Provincial Legislative Councils would greatly increase the efficiency of the municipalities, by forming the proper bond of union between the several boroughs of any one province, which would then all be fitted as it were into one body politic, the action of the several parts and of the whole of which would be in entire harmony.

44. In my despatch, No. 123, of 24th October, 1850, transmitting the draft of the Provincial Councils Bill, and in the other despatches named in the margin,* I reported so fully upon the reasons which induced me to adopt the rate of franchise for electors named in the enclosed Ordinance, the principles of no express qualifications being required for members of the Council, and of paying the estimated amount of their probable expenses, as also upon the reasons which led me to recommend that these Councils should only be elected for two years, that I do not think it necessary to trouble your lordship with a further explanation on these subjects. I therefore now pass on to the form of General Legislature which I would recommend for these islands.

General Legislature.

45. A consideration of the enclosed Ordinance' and of the subjects of general interest on which it prohibits the Provincial Councils from legislating, reserving these for the General Legislature, will, I think, so clearly point out the necessity which exists for the creation of a General Legislature, that I do not think it necessary to advance any arguments in favour of the creation of such a body ; but

* No. 106, 29th Nov., 1848—No. 4, 2nd Feb.—No. 23, 15th March—No. 27, 22nd March, and No. 161, 30th Nov., 1849.

assuming it to be admitted that a General Legislature should be constituted for New Zealand, I shall proceed to point out how I think that body should be composed.

46. I think it should consist of—

A Governor-in-Chief, appointed in the usual manner by the Crown ; of—

A Legislative Council, elected in the manner recently suggested to me by your Lordship, that is, by the Provincial Councils, such a number of votes being allowed to each member of these Councils as to enable a minority to be at least in some degree represented : and, thirdly, of—

A Representative Assembly, to be elected by voters, with exactly the same qualification as is required to be possessed by those who vote for the return of members of the Provincial Councils.

I think, as it is proposed that the General Legislature should be so rarely assembled, it would be requisite that the members, both of the Legislative Council and of the House of Representatives, should be elected for a period of five years.

47. I have only within the last few days had an opportunity of perusing for the first time the Report of the Committee of the Board of Trade and Plantations on the proposed establishment of a Representative Legislature for the Cape of Good Hope, which your Lordship so kindly sent out to me ; and I beg to state, that I think the recommendations made in the twenty-sixth and twenty-seventh paragraphs of that Report regarding the powers to be given both to the Governor and Legislative Council to amend bills which may be sent up to them should be conferred upon the Governor-in-Chief and the Legislative Council of New Zealand, if the form of constitution I propose is introduced into this colony.

48. I have thus traced the general outline of the form of representative institutions which experience and reflection have led me to deem best suited to the circumstances of New Zealand. There yet, however, remains for me the duty of suggesting the form of Executive Government by which these institutions should be worked, and without a distinct exposition of which the proposed plan

could only be very imperfectly understood. In explaining my views on this subject it will be necessary for me to follow an order the reverse of that which I have adopted in explaining the constitution I propose for New Zealand; that is, whilst I traced the institutions themselves up from the lowest order of municipality to the General Legislature, it will be necessary for me, in order to make myself clearly understood, to trace the Executive Government from the Governor-in-Chief downwards.

General Executive Government.

49. I propose that the General Executive Government should consist of a Governor-in-Chief nominated by the Crown, a Civil Secretary, and either two or three principal officers, for the present nominated by the Crown, and holding permanent appointments. I am unable, until the system has been tested, to state the precise number of officers that may be necessary to conduct the business of the central Government, nor do I think it requisite to attempt to state how the personal staff of the Governor-in-Chief should be composed, or what establishment of clerks may be necessary for the principal officers. The number of such persons need at present only be very limited, and I presume that the cost of the central Government would for the present be paid from the civil list.

50. The duties of the Governor-in-Chief would consist in corresponding with, and receiving all necessary instructions for his guidance in the government of these islands from her Majesty, through one of her Majesty's principal Secretaries of State. He would also correspond through the Civil or Chief Secretary with the officers administering the Government of the several Provinces, and within the limits fixed by the laws existing at the time, would prescribe to what extent it should be the duty of such officers to await his instructions before carrying into effect the powers by law vested in them.

51. It would be immaterial in what province he might temporarily reside, as under the Provincial Council's Ordinance, his duties would in no way

interfere with those of the officer administering the government of the province.

52. I think also that the Governor-in-Chief should be the sole Commander-in-Chief in the New Zealand Islands, and should alone have the power of issuing to the officer in command of the forces within these islands and their dependencies orders for the march and distribution of troops, the formation and march of detachments and escorts, and generally for such military service as the safety and welfare of the colony may require.

53. I think, farther, that the Governor-in-Chief should alone be entrusted with the power of issuing orders regarding the temporary occupation of Crown lands for depasturing purposes; that he should have the appointment of all officers having the control or administration of the Crown lands, except such officers as might be appointed for these purposes by wardens or municipalities in accordance with the powers by law vested in them; and I think also that the distribution of the Crown land revenue in the manner prescribed by law, either for emigration purposes or for the purpose of public works to be executed under the authority of the Provincial Legislatures, should be made under the direction of the Governor-in-Chief.

54. In like manner I think that the expenditure of the civil list, and of such sums as may be reserved for purposes connected with the welfare of the native population should be made under the direction of the Governor-in-Chief, subject to such instructions as he may receive from time to time from the Secretary of State. He should also be allowed to exercise the power he at present possesses of appointing Resident Magistrates and Native Assessors for the purpose of carrying out English laws in any district which from its large native population might, in his opinion, require the presence of such officers.

55. The Governor-in-Chief should also in my opinion alone have the power of making to Europeans grants for lands which may be claimed in virtue of alleged contracts between themselves and persons of the native race, the nature of the claim to which would differ from one which rested on a

purchase made from the Crown of part of its demesne lands. I think, farther, that the Governor-in-Chief should have the power of making, at his discretion, grants of land to persons of the native race, and of assuring to themselves and their heirs the uninterrupted possession of certain properties ; and that he should also alone have the power of making grants of the demesne lands of the Crown for public purposes.

56. Lastly, on this head, I think the Governor-in-Chief should, for the present, have all the powers regarding the confirmation or disallowance of Provincial Ordinances which are conferred upon him by the enclosed Ordinance ; and should, in conjunction with the General Assembly of the islands, have the power of making and ordaining all such Laws and Ordinances as may be required for the peace, order, and good government of the New Zealand islands, which laws should be transmitted with the least possible delay for her Majesty's allowance or disallowance.

57. I also propose that the Governor-in-Chief should have the power of dividing the colony into judicial districts for the purposes of the administration of justice, of altering the limits of such districts, and of prescribing the places at which Circuit Courts should be held ; and farther, that he should exercise all such powers as have been or may be conferred upon him by Ordinances made by the General Legislature of New Zealand.

58. The Governor-in-Chief, conjointly with the General Legislature, would have the power of fixing by law the number and salaries of the officers employed in the collection of those portions of the revenue which were collected under laws enacted by their authority ; and would in like manner fix the number and salaries of the officers who were to be employed in the survey and administration of the Crown Lands.

59. Under the existing laws of New Zealand, the Governor-in-Chief already possesses the whole of the powers which I have recommended should still be exercised by him. In many points, such as the appropriation of the land revenue, and of the sums reserved for native purposes, the issuing of orders

for regulating the depasturing of sheep and cattle on waste lands of the Crown, the rate of remuneration to be given to the officers of the General Government, &c., &c., the limits within which he should exercise the powers intrusted to him, would have by degrees to be adjusted by laws enacted by the Governor-in-Chief and General Assembly of these islands. But I do not apprehend that any serious difficulty will be experienced in adjusting these details.

60. I think also that in reserving these powers to the Governor-in-Chief, Great Britain would retain the means of promoting in every desirable way the interests and welfare of all her Majesty's subjects in these islands, to whatever race they belong. I do not think that, in justice to the native race who yielded the sovereignty of these islands to her Majesty, any of these powers ought for the present to be abandoned by the Crown. Nor do I think that the very great majority of her Majesty's subjects inhabiting New Zealand would desire for the present to see Great Britain relinquish these powers. But I think a wise foresight requires that the Crown, in retaining all necessary powers, should retain none that are not essentially necessary. From this proceeding would probably spring a great and lasting contentment amongst her Majesty's subjects in these islands, who, having a very large measure of freedom bestowed upon them, and being deprived of no privilege which was necessary for the free exercise of a system of local self government, would probably for a long series of years, cheerfully see vested in the hands of the Crown the powers which it alone could exercise for the good of all, and the possession of which by the Crown in no way interfered with the freedom or happiness of any class or community of its subjects. Having made these introductory remarks, I shall now proceed to the consideration of the form of Executive Government which should, I think, be given to each of the Provinces into which it is proposed New Zealand should be divided.

Provincial Executive Governments.

61. The terms of the New Zealand charter of 1846

compelled me, in the Provincial Councils Ordinance, to apply the term "Lieutenant-Governor" to the officer administering the government of each province. Had a discretion been left to myself, I should have designated such an officer by the term "Superintendent;" and I would still recommend the adoption of this designation for the officer administering the government of a province.

62. I should now remark, that according to the original constitution of New Zealand, the Crown nominated one Governor, and the officers composing one general government for the whole of these islands. I propose still that it should exercise the same powers in the nomination of a Governor-in-Chief, and that for the present it should continue to nominate the Officers of the General Government. But here, in addition to the observations I have already made upon the evils that may result from the Crown retaining unnecessary powers, I should observe that if the Crown nominates in these islands the Lieutenant-Governor or Superintendent of each Province, and all the officers composing the Executive Government of the respective Provinces, together with their establishments, and makes, as would in that case be necessary, their salaries a charge upon the civil list, it will create, throughout the entire New Zealand islands a multitude of officers who, in the event of their offices being abolished, when a freer system of institutions was introduced, would have a claim for compensation, and thus such serious difficulties would be interposed in the way of the introduction of any freer form of institutions into the islands of New Zealand, that I almost doubt if it would be possible subsequently to introduce them without subjecting the country to a crisis which must materially affect its prosperity.

63. I would, therefore, earnestly recommend her Majesty's government, subject to the restrictions which I will, hereafter mention, to allow the electors of every Province to elect the Superintendent or officer administering the Government of that Province, to hold office for the same period of time as the members of the Provincial Councils are elected to serve, and then to leave it to the Super-

intendent and the Provincial Council of each Province to regulate, by laws subject to the approval or disallowance of the Governor-in-Chief, the extent of the Executive Government which is to be constituted for such Province; the rate of remuneration which is to be paid to the officers composing the Executive Government, and the nature of the tenure upon which themselves and the subordinate officers in their respective establishments are to hold office. In fact, in these respects I should wish to see each Province treated as a large municipality which had the power of electing its own mayor and corporate officers.

64. The restrictions to which I think this rule should be subjected apply only to the period of its introduction into the several Provinces. At Auckland, Wellington, and Nelson, which would be the capitals of three separate Provinces, Governments have been already constituted. In two of these Provinces a large native population already exists, and no new experiment in them should therefore be rashly hazarded, or immaturity introduced. Great Britain also maintains in them a considerable military force for the protection of their inhabitants, and thus should for the present exercise a great influence in them. I would therefore recommend that the rule regarding the election by the inhabitants of the officer administering the Government, and of making laws for the nomination of the officers composing their own Executive Governments, should only take effect in the three Provinces I have named, from the period at which the six years of service of the two Lieutenant-Governors and of the Superintendent who have been appointed to administer their Governments respectively shall have terminated. This rule would present the farther advantage of a just dealing with the claims of the Lieutenant-Governors and the Superintendent.

65. I think also that a farther restriction should be imposed in reference to this rule, and that is, that no officer who has received a permanent appointment from the Crown in any of the Provinces in New Zealand should be removed from his office by any Provincial Council until his claim shall have

been considered, and until, if it is found a valid one, a law shall have been passed by the Provincial Council, and shall have received the assent of the Governor-in-Chief, securing to such officer such compensation for the loss of his situation as the nature of his office, the amount of salary received, and his length of service may be considered as fairly entitling him to.

66. With regard to the nature of the powers which should be conferred upon the Superintendent or other officer administering the Government of a Province, it is only necessary for me to state that I propose that he should be invested with all the legislative powers which are conferred upon him by the enclosed Provincial Councils Ordinance, and that, in addition thereto, he should exercise the powers usually intrusted to Colonial Governors of remitting fines, fees, and penalties, (the power of pardoning in criminal offence should still, I think, vest solely in the Governor-in-Chief in order that the whole question of the administration of justice should be left with the central authority,) and of making Crown grants of land to persons who may have legally purchased the same as part of the demesne lands of the Crown. He should also be empowered, with the advice of his Executive Council, and in conformity with the regulations required by law, to proclaim Crown lands as open for purchase, and to fix the upset price of such lands, not being less than the minimum price fixed by law.

67. But although I should wish to see these powers conferred upon the officer administering the government of a province, I think that the Governor-in-Chief, as the officer nominated by the Crown, should still possess the right of exercising these powers throughout the whole extent of the islands of New Zealand; and perhaps, at present some convenience would result from empowering him, by a legal instrument, to delegate these powers to such person as might be duly elected Superintendent of a province, for the time during which he might be elected to serve, and no longer.

68. From what I have above stated, it will be seen that I am of opinion that the power of electing

the officer to administer their government, and of making laws for regulating the appointment of their own executive officers, should be immediately conferred upon the provinces of Canterbury and Otago; and in fact that they should, in like manner, be conferred upon the provinces of Wellington and Nelson almost as soon as Her Majesty's assent could be received to the enclosed Ordinance, and upon the Province of New Ulster at a rather later period; and, as, after this rule was introduced into any province, no advantage could result to the Crown from an officer elected by the people nominating one-third of the members of the Council, (although for the purposes of the introduction of this measure into those provinces having a large native population, I believe this provision to be a most necessary one,) I would farther propose that the Governor-in-Chief and the existing General Legislative Council should be authorised to pass, before the new constitution was proclaimed, if they thought proper to do so, a law enacting that the Provincial Council should consist wholly of elected members from and after the time at which the inhabitants of any province should be authorised by the law to elect their own Superintendent.

69. I have but one observation to make upon this subject. In my previous despatches I have generally supposed that the Provincial Councils would eventually merge into a kind of municipal councils. But the rapid growth of these settlements in wealth and prosperity, and the turn events are taking, now lead me to think that they will always remain distinct and separate provinces, and that provision should be made for enabling their present form of government, consisting of one chamber, to be changed by the General Legislature into a form of government composed of a Legislative Council and House of Representatives, whenever the number of inhabitants in any province, and its wants, might render such a change in its form of government practicable and desirable.

Civil List.

70. The civil list at present appropriated for the services of New Zealand is twelve thousand pounds

(£12,000); six thousand (£6,000) from the northern province, and six thousand from what would be the four southern provinces; and as the revenues of each of these two great divisions of New Zealand are at present nearly equal, or about thirty thousand pounds (£30,000) each, such a division is, I think, at present fair, and the total amount is amply sufficient to defray the salaries of the officers composing the General Government, and of the judges of the Supreme Court, to which purposes alone I think it should be devoted. Indeed I think at present that the sum of ten thousand pounds (£10,000) as stated in the margin,* might suffice for these purposes: and if, in a few years, it should be found insufficient for them, then from the great liberality which has always been evinced by the General Legislature of these islands in providing funds for carrying on the Government, I feel quite satisfied that they would readily make good any deficiency. It will be observed that in proposing to throw this charge upon the civil list, it is assumed that the Parliamentary grant will be altogether relieved from the charges it at present defrays on account of the Governor-in-Chief and the General Government establishment.

Funds to be reserved for Native purposes.

71. But I should point out to your Lordship that under the form of government I now propose, the country is to be divided into electoral districts, which will only include those portions of it which are occupied by a large European population; the great mass of the native population, who contribute largely and increasingly to the revenue, which is at present almost entirely raised from duties of customs, would be thus wholly unrepresented. I beg, therefore, most earnestly to recommend that from the revenues of the northern province there should be reserved a further yearly sum of four thousand pounds (£4,000); from the revenues of the Wellington province a sum of two thousand

* Governor-in Chief and Establishment of General Government.....	£7,000
Judges.....	3,000
	<hr/>
	£10,000

pounds (£2000); and from the revenues of the three southern provinces a sum of one thousand pounds (£1,000), making in the whole an annual amount of seven thousand pounds (£7,000), which the Governor-in-Chief should be authorized to apply, together with any surplus that may accrue from the civil list, to any of the following purposes :—

The construction and maintenance of hospitals, to which Maories are admitted on equal terms with other subjects of Her Majesty :

The establishment and maintenance of schools, to which Maori children are admitted on the same terms as other scholars :

For the payment of Resident Magistrates, and of Native Magistrates, and for the maintenance of a Native Police :

For making presents to native chiefs in acknowledgment of services rendered by them :

And, generally, to such other purposes as may tend to promote the prosperity and happiness of the native race, and their advancement in Christianity and civilization.

72. I perhaps ought to explain that the resident magistrates I allude to are judicial officers, appointed under a local law, termed the "Resident Magistrates Ordinance," and who are entrusted with considerable and peculiar powers for the adjustment of criminal and civil cases in which Europeans, or Europeans and Maories, or Maories alone, are concerned. The law to which I am adverting was devised and framed with great care to meet the peculiar circumstances of a European race mingling with a population just emerging from barbarism. It is highly esteemed by the natives, who now resort freely to the courts of the Resident Magistrates ; and if any circumstance should occur which closed these courts, I fear that great discontent and renewed disturbances would take place amongst the native population.

73. I have recommended that for the present the Governor-in-Chief should be authorized to apply, at his discretion, the sums reserved for native purposes ; but I think that a provision should be made that he

should only exercise this power for a limited time, and that after that date such sums should be appropriated under the authority of Ordinances to be passed by the Governor-in-Chief and General Assembly, who I think would freely and cheerfully contribute such amounts as were required for the wants of the native population; whilst, as I have continued—as I have reported in several dispatches—to make considerable endowments for Hospitals and Native Schools, the incomes yielded from which are rapidly increasing, the necessity of providing for the support of such establishments from the general revenue will constantly diminish.

74. In further explanation of the necessity which exists for providing ample funds for native purposes, I beg to refer your Lordship to paragraphs from No. 11 to 32 inclusive, of my despatch No. 93, of the 9th July, 1849, which is published at page 190 of the Parliamentary Papers relative to the Affairs of New Zealand, which were presented to Parliament in 1850; and I would farther request, that that portion of the despatch I allude to might, together with this despatch, be laid before any persons required to report on the plan now transmitted for your Lordship's approval. Because I believe that the present peace and prosperity of the colony, and the continued rapid advancement of the natives in civilization, are in a great degree to be attributed to a rigid and consistent adherence to the line of policy laid down in that despatch. It will also be found, that the powers I propose should be reserved to the Governor-in-Chief are such, as, if he has the requisite funds for native purposes placed at his disposal, will still enable him virtually to govern that portion of the native population who live beyond the limits of European settlements; whilst all requisite local Ordinances have been passed by the General Legislature for the purpose of investing him with the requisite legal powers for carrying out the contemplated system. In naming the sum that will be required for native purposes, I have supposed that, as under Lord John Russell's original instructions, the Governor-in-Chief would still, if a necessity for his so doing should arise, be

authorised to apply 15 per cent. of the land fund to such purposes; and that the General Government alone would have the power of treating with the natives for the purchase of their lands. I do not consider it necessary to repeat here any arguments in support of what appears an evident truth,—that the question of the control and management of the large native population living beyond the limits of European settlement, who by being either left immersed in barbarism, or being roused to war, might entail great expense and loss of life and property, both upon Great Britain and every part of these islands—is a general question which possesses at present an interest for the whole Empire, and for the whole colony, rather than for any particular province.

75. Having now fully reported upon the form of constitution which I think should be given to these islands, and upon the nature of the Executive Governments which would best conduce to the effective working of such institutions, I have, in reference to these parts of the subject, only to report, that in order to admit of the immediate introduction of the institutions I have recommended, or of any other form of government which Her Majesty's Government may be pleased to adopt, I shall only make any appointments under the Provincial Councils Ordinance, which I may find it necessary to make before I can receive your Lordship's reply to this despatch, subject to the condition that they are mere temporary appointments, the tenure of which is likely almost immediately to terminate.

76. I have further to report that, in as far as depends upon me, all general laws necessary for the immediate introduction of such institutions have been already enacted by the General Legislature; that the revenues of the country are in a most satisfactory state; and that such economy has been exercised that each Provincial Legislature would enter upon its functions, not only free from debt, but with some surplus revenue at its disposal. The enclosed circular despatch,* which I have had

* Circular from the Colonial Secretary of New Munster, dated 4th September, 1851.

addressed to the principal officers of the Government at the respective settlements, will show that I have made the necessary financial arrangements to bring the proposed system of representative institutions into immediate operation. The whole of these islands are now in a state of complete tranquillity ; every settlement is in a prosperous condition ; the native race are loyal, contented, and daily increasing in wealth, and the Local Government now possesses very considerable influence over them. I also believe the proposed form of institutions could gradually be introduced in such a manner that not the slightest shock or change in the condition of the colony would be experienced. Probably, therefore, no more suitable moment could be chosen for giving a fitting constitution to this country ; and I think that if the Queen is advised to avail herself of this opportunity, Her Majesty will have the happiness of conferring upon her subjects in this country a boon which will be regarded by them with lasting gratitude.

77. In submitting the foregoing plan for your Lordship's consideration, I should state that I have no doubt, if it should be tried by the test of experience, it will from time to time be found capable of receiving considerable improvements ; but I think it presents the advantage of being admirably adapted to the present state of New Zealand, and of at the same time containing those elements which will enable it, without any sudden or startling change being made, to be immediately brought into operation, and then afterwards to be adapted to the changing circumstances of a young and rapidly increasing country.

78. Should Her Majesty's Government determine to introduce the proposed form of institutions into New Zealand, then I beg respectfully to state, that I think the best mode of effecting this would be, after obtaining such farther sanction as might be required from Parliament, to adopt the same course as was pursued in 1846, of conferring the proposed constitution on New Zealand in the form of a Charter, and Royal Instructions, divided into chapters, as the clear division of subjects into chapters, and the plain and simple language, un-

embarrassed by technicalities, which could be so conveniently and appropriately used in Royal Instructions drawn on the model of those of 1846, would bring the whole subject entirely within the comprehension of the numerous individuals upon whom the beneficial working of such a constitution would depend.

I have, &c.,

(Signed)

G. GREY.

The Right Hon. EARL GREY,

&c., &c., &c.

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